

FREQUENTLY ASKED QUESTIONS ABOUT CEMETERY ISSUES

Whom do we regulate? – The State regulates approximately 170 for-profit cemeteries and not-for-profit cemeteries that are larger than 10 acres. We also regulate about 125 small cemeteries (under 10 acres). The Michigan Cemetery Act, 1968 PA 251, MCL 456.522(a) defines a crematory as a cemetery. Per MCL 456.530, we do not regulate municipal cemeteries or cemeteries owned by a religious organization. If a person has a problem with a municipal cemetery, the person has to contact the township clerk, if it is township or city owned contact the department that is responsible for maintaining city owned parks. There are approximately 4,200 cemeteries in the State.

Can I put a cemetery on my own property? – 1875 PA 88, MCLA 128.111, allows a deed for a private (family) burial ground of not more than one acre of property located outside the corporate limits of any city or village. It is recommended the owner of the property consult with an attorney before establishing the cemetery, as well as checking with the township clerk and county health department regarding local issues, i.e. zoning, etc. In addition, when considering where the cemetery is located, ensure sufficient land for future generations to have access to the cemetery after selling the surrounding property.

Where can I scatter cremains? – Michigan does not have a statute regulating the scattering of cremains. Therefore, scattering can be done anywhere with the permission of the property owner.

Can I take the body of a deceased person directly to a crematory, thereby avoiding the use of a funeral home? – No. The definition section of the Mortuary Science article of the Occupational Code, Article 18 of PA 299 of 1980, restricts the preparation, care and final disposition of a human body to a mortuary science licensee who works out of a licensed funeral establishment. A funeral establishment may delegate the transportation of a human body to someone who is not licensed.

Do I need a disinterment/reinterment permit? – A mortuary science licensee obtains the permit from the local health department (R 325.8052). A mortuary science licensee is required to be present when disinterring a body from one cemetery and moved to another cemetery. Please check with the county health department to determine if a disinterment/reinterment permit and a mortuary science licensee are required if moving a body from one lot to another lot within the same cemetery, as this requirement varies from county to county.

Are vaults required? – MCL 339.1811(1) - Michigan law does not require the use of a vault in the burial of a body. However, most cemeteries require the use

of a vault for maintenance reasons, MCL 339.1811(2). The purpose of the vault is not to protect the human remains; it is to prevent the grave from caving in as the remains and casket deteriorate.

Are caskets required? – Michigan law does not require the use of a casket. However, you must use some type of container to transport a body. The container can be a cardboard shipping container, usually used for direct cremation, a body bag, or a simple wooden casket (pine box). MCL 339.1810(1)(g) prohibits reuse of any container previously used as a receptacle for, or in connection with, the burial or other disposition of a dead human body.

Can I build my own casket? – Yes. Under the FTC Trade Rule, a funeral home cannot refuse to accept a casket purchased somewhere else (Costco) or built by a family member/friend. However, funeral homes may make the family sign a liability waiver if something happens to the casket.

Is embalming a body required? – If final disposition (buried/cremated) is within 48 hours of the time of death, embalming is not required. There is an exception to this for deaths due to certain communicable diseases (diphtheria, polio, smallpox, etc.) DCH rules R 325.1141 – R 325.1142

What happens when a cemetery buries someone in the wrong grave? – This happens more frequently than you would think. The public automatically assumes the cemetery has sold the lot twice. However, the overwhelming majority of the time it is the result of simple human error. Cemetery personnel responsible for excavating the grave opened the wrong grave by selecting the wrong row, or a lot several spaces over from where the correct lot is located. When this occurs, cemeterians are very willing to resolve the issue as quickly as possible to avoid a costly lawsuit. However, many times the family of the deceased person in the wrong grave refuses to have the remains moved to the correct grave because they do not want to go through the emotional stress of another burial. It is best to let the cemetery negotiate a settlement with the various parties.

Our church would like to establish a columbarium/garden for cremains.

What do we need to do? – The Michigan Cemetery Act, 1968 PA 251, defines a columbarium as a cemetery. However, the State does not regulate cemeteries owned by bona fide religious organizations, MCL 456.530. You should check with the local unit of government where the columbarium/garden is to be located to determine if there will be any zoning restrictions or building requirements imposed.

How do I establish a pet cemetery? – The State of Michigan does not regulate pet cemeteries.

Can I have my pet buried with me? – No, if it is a cemetery regulated by the State of Michigan. The cemeteries the State regulates are for human remains only.

Can a crematory use the same equipment to cremate animals as they use to cremate a human body? – No. The crematories regulated by the State are for human remains only.

How do I know my loved one is really buried where the cemetery says he/she is buried? – Without disinterring a body, there is not any way to know for sure. Family members are usually discouraged from watching a burial. Although many mortuary science licensees stay to watch the burial, if the burial is not done immediately, it may not be observed by anyone representing the family. The matter is often complicated, since many years may go by before the person returns to the cemetery to visit the grave. The landmarks they remember from the time of the funeral (a big tree, a road, etc.) may have changed during the intervening years and so the grave is not where they remember it to be.

How do I form a new cemetery? - There is a form for a new cemetery located on the cemetery website at www.michigan.gov/cemetery. You will also need to submit the nonrefundable investigation fee of \$1,500; a copy of the endowment and perpetual care trust fund agreement; proof of initial deposit of \$50,000 in to the endowment and perpetual trust fund; a deed to at least 40 acres, showing the owner in fee simple (no encumbrances); a document of community need; and all other investigatory information the commissioner requires.

How do I transfer ownership of a cemetery? - There is a form for a change of control located on the cemetery website at www.michigan.gov/cemetery. You will also need to submit the nonrefundable investigation fee of \$1,500; a copy of the endowment and perpetual care trust fund agreement; proof of funding for the transaction; sworn statements in compliance with section 12 of 1968 PA 251; and all other investigatory information the commissioner requires.

How do I find ownership or location information for a cemetery? – There is a listing of cemeteries by county and township on the State History Arts and Libraries website: www.hal.state.mi.us/cemeteries or you can contact the cemetery commissioner's office at 517-241-8070 and whatever information is known will be provided.

FREQUENTLY ASKED QUESTIONS ABOUT CREMATORY ISSUES

Whom do we regulate? – The Michigan Cemetery Act, 1968 PA 251, defines a crematory as a cemetery. We do not regulate municipal cemeteries or cemeteries owned by a religious organization. If a person has a problem with a municipal cemetery, the person has to contact the township clerk, if it is owned by a township, or if it is a city owned cemetery, the department that is responsible for maintaining city owned parks. (MCL 456.530(1))

Where can I scatter cremains? – Michigan does not have a statute regulating the scattering of cremains. Therefore, scattering can be done anywhere with the permission of the property owner.

Can I take the body of a deceased person directly to a crematory, thereby avoiding the use of a funeral home? – No. The definition section of the Mortuary Science article of the Occupational Code, Article 7 of 1980 PA 299, restricts the preparation, care and final disposition of a human body to a mortuary science licensee who works out of a licensed funeral establishment. A funeral establishment may delegate the transportation of a human body to someone who is not licensed.

Can a crematory use the same equipment to cremate animals as they use to cremate a human body? – No. The crematories regulated by the State are for human remains only.

How do I form a new crematory? - There is a form for a new crematory located on the cemetery website at www.michigan.gov/cemetery. You will also need to submit the nonrefundable investigation fee of \$1,500; a DEQ permit for installation; a deed to the property showing the owner in fee simple (no encumbrances); and all other investigatory information the commissioner requires.